

BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, D.C. 20268-0001

RETAIL ACCESS OPTIMIZATION INITIATIVE

Docket No. N2011-1

**RESPONSE OF THE UNITED STATES POSTAL SERVICE IN OPPOSITION
TO AMERICAN POSTAL WORKERS UNION, AFL-CIO, MOTION TO COMPEL
USPS TO RESPOND TO INTERROGATORIES
APWU/USPS-T1-1(D & E) AND T1-2
(September 6, 2011)**

On August 15, 2011, the American Postal Workers Union, AFL-CIO (the “APWU”) submitted interrogatories APWU/USPS-T1-1-5.¹ On August 22, 2011, the United States Postal Service (the “Postal Service”) objected to APWU/USPS-T1-1(d & e) and T1-2 because the interrogatories are overly broad, unduly burdensome, and not relevant to this proceeding.² On August 29, 2011, the APWU filed a motion to compel responses to APWU/USPS-T1-1(d & e) and T1-2 (the “Motion”).³ This pleading serves as the Postal Service’s response to the Motion. Because the Motion seeks information that falls far beyond the scope of this proceeding, and because the collection of responsive information would impose an undue, excessive, and unnecessary burden on the Postal Service, the Commission should deny the Motion.

¹ Interrogatories of the American Postal Workers Union, AFL-CIO to USPS Witness Boldt [APWU/USPS-T1-1-5], PRC Docket No. N2011-1 (August 15, 2011).

² Objections of the United States Postal Service to Interrogatories APWU/USPS-T1-1(d&e) and T1-2, PRC Docket No. N2011-1 (August 22, 2011).

³ American Postal Workers Union, AFL-CIO, Motion to Compel USPS to Respond to Interrogatories APWU/USPS-T1-1(d & e) and T1-2, PRC Docket No. N2011-1 (August 29, 2011).

APWU/USPS-T1-1(d & e)

These interrogatories seek, for all facilities nominated for attention in the RAOI Request, operational and locative details for “five postal retail and/or alternate access sites.” APWU’s motion pretends to ignore the fact that five nearby access points for retail postal services were not selection criteria for two of the four groups of offices. The motion then cites various statutory provisions to support its argument that how offices were selected might have been arbitrary, or unduly discriminatory, and that these details are needed for the Commission to evaluate the Request.

APWU’s basic position is that the cart must be examined before value of the horse can be evaluated. RAOI constitutes a statutorily based request for an advisory opinion whether nomination of approximately 3650 offices for the conduct of discontinuance studies qualifies as a nationwide change in service, and whether the request comports with the policies of title 39. The logical reasoning behind the selection of the four groups of offices comprising the 3650 candidates is laid out in the simplest of terms by witness Boldt’s testimony. Yet, somehow the APWU never even mentions that testimony in its argument. The reasons why offices were chosen are straightforward business judgments. As such, the statutory tests APWU urges should be (mis-)applied at this stage require no more information than is provided in the testimony.

This docket does not have the information APWU pretends to require for the simple reason that the 3650 offices have merely been nominated for discontinuance studies; only when those studies are conducted are details of

respective facilities elicited so that the feasibility of discontinuance can be evaluated. Moreover, that is precisely what the law requires as the history of Commission review of Postal Service discontinuance decisions confirms. The details APWU seeks are ones that would only be collected and documented during the feasibility study of each office.⁴ Those details have no bearing upon consideration of the instant Request.

In RAOI, the Postal Service is not proposing the discontinuance study of each office; only in respective discontinuance studies does the Postal Service examine each facility and consider, for example, how section 101(b) of title 39 should come into play. APWU would instead have that examination take place in RAOI.

Assuming, however, that APWU is correct, that would mean the Postal Service must not only nominate 3650 offices for the conduct of discontinuance studies, it must complete those studies and make final determinations regarding respective facilities prior to seeking an advisory opinion. Yet by what logic could such a course of action escape claims that the Postal Service has acted upon a potentially nationwide change in service prior to seeking the advisory opinion required by section 3661? The fact that no logic could sustain a request for an advisory opinion following conclusion of Postal Service final action on the change in service itself explains how APWU puts the cart before the horse. Collecting all of the details APWU seeks now would impose an undue burden upon the Postal

⁴ Given release to the press by local postal officials of the identity of certain offices for whom a decision not to complete a discontinuance study was made indicates that for some offices, no further data collection will take place.

Service that would manifest itself as a freeze in day to day decision making in district offices nationwide.

As described in detail in the Postal Service's Objections, responding to these interrogatories would require extensive resources that exist at the district level. Moreover, these people are real individuals who have jobs that already take up their full time, during which they are also expected to initiate discontinuance studies at the approximate pace of one per district per day. Discontinuance studies have traditionally taken 12-18 months each (although that time has been reduced under the new PO-101), but that duration is nonetheless an indication of the burden entailed for each. The interrogatories are accordingly overly broad, unduly burdensome, and not relevant to the Retail Access Optimization Initiative, as explained also in the *Objections of the United States Postal Service to Interrogatories APWU/USPS-T1-1(d&e) and T1-2*, PRC Docket No. N2011-1 (August 22, 2011).

Of course, as every participant knows, APWU does not really want or need the information; or if it does, it would only be explained by a direct case that itself assumes the completion of discontinuance studies and final action on each. The fact that such information is routinely collected and considered in the conduct of respective discontinuance studies does not serve APWU's purpose of slowing and prolonging this proceeding as much as possible. This strategy is reflected in its claim that statutory provisions that do not come into direct play until discontinuance studies play out must themselves drive the Commission to a particular outcome in this docket, and that the Postal Service is somehow

engaging in undue discrimination or the arbitrariness that only APWU claims exists.

More than 3,000 of the retail facilities selected as candidates for study - over 75 percent of the facilities included in the RAO Initiative - were identified based on criteria that did not involve proximity to alternate access sites. As explained in Postal Service objections, the information requested regarding alternate access sites is available to the APWU and the public on the Postal Service's public website, www.usps.com. Objections at 4. The APWU has included nothing in its motion that somehow justifies shifting the burden APWU can already take on and impose it upon the Postal Service. Specifically, its allegations about flaws in the RAO Initiative concerning revenue and earned workload are unrelated to the subject of these interrogatories, which pertain to the availability of alternate access. See Motion at 3.

In its Motion, at 5, APWU also pretends to offer a compromise; the pretense starts in reservation of the right to seek to compel what it has already sought to compel.

Further, the Postal Service has already provided some information responsive to these interrogatories. On August 25, 2011, it filed Library References USPS-LR-N2011-6 and USPS-LR-N2011-1/7, providing alternative access information for stations, branches, and retail annexes.⁵ The Motion should accordingly be denied.

⁵ USPS-LR-N2011-1/7 – Number and Type of Alternate Access Points Close to RAO Station and Branches – POIR 1, Q. 15 (August 25, 2011); USPS-LR-N2011-1/7 – Number and Type of Alternate Access Points Close to RAO Annexes – POIR 1, Q. 15 (August 25, 2011).

APWU/USPS-T1-2

This interrogatory parallels parts (d) and (e) by seeking massive details pertinent to facilities that are not part of RAOI. Again, APWU's attenuated claim of pertinence and wildly extrapolated claims of possible discrimination problems totally ignore the reasonable testimonial explanations for why facilities are included in RAOI. Instead, APWU seeks further delay and obfuscation by attempting to provoke argument about why some facilities were not selected. The Postal Service has made no plans regarding what it will do subsequent to seeing the results of RAOI. Those results will, however, inform future decisions. So information about excluded facilities could not be more irrelevant to the instant proceeding.

In this proceeding, the Commission is required to evaluate whether the service changes proposed in the RAO Initiative conform to applicable policies in Title 39, United States Code. See 39 U.S.C. § 3661(b), as implemented by 39 C.F.R. § 3001.72. It is not necessary for the Postal Service to show that the RAO Initiative will create the best possible retail network. See 39 U.S.C. § 3661(a) (establishing standard of "adequate and efficient postal services"). And, in evaluating the RAO Initiative, it is not necessary to review every single postal retail facility to determine if any facility excluded from the RAO Initiative is a better candidate for study than a facility included in the RAO Initiative. Such questions simply are not presented by the Request.

This interrogatory is inconsistent with the goals of a Section 3661 proceeding because it seeks information related to the Postal Service retail

network generally, and is not tailored to address the specific subject of the Postal Service Request. Although the APWU may have an interest in challenging general Postal Service decisions regarding its retail network, this particular proceeding is limited to the service changes identified within the scope of the RAO Initiative submitted to the Commission, and the criteria and retail facilities included in that initiative. As part of the RAO Initiative, the Postal Service did not review, analyze, or consider the retail facilities that did not meet the criteria described in the testimony and request. If the Postal Service provided a response to this interrogatory, it is likely that the APWU would initiate a discussion about particular postal facilities that were excluded from the RAO Initiative. Any inquiry about excluded facilities would involve analysis that did not occur as part of the RAO Initiative, and thus a response to this line of line of inquiry would require the Postal Service to conduct new analysis and exhaust additional resources.

By submitting a detailed description of the RAO Initiative, the Postal Service provides necessary focus to the Commission's analysis and review of the facilities and services potentially impacted by the RAO Initiative, while avoiding the need to consider all other postal services and facilities. This interrogatory reflects the APWU's attempt to obtain virtually unlimited discovery, and granting the APWU the relief it seeks would undermine the integrity of the Section 3661 process by converting these proceedings into limitless, unfocused expeditions for the production of data that could be used for unrelated purposes.

For the reasons set forth above, the Commission should deny the
APWU's Motion.

Respectfully submitted,

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